

REGULATION 1995-4
DAMAGED VEHICLE TITLE REGULATION

Pursuant to authority given the Director of the Department of Finance and Administration by section 7 of Act 614 of 1993 and Act 620 of 1995, after the effective date of this regulation, an owner of a DAMAGED VEHICLE must meet the requirements of this regulation for the purposes of placing a brand on the face of the certificate of title denoting such damage, and denoting the previous damage if the vehicle is subsequently sold, repairing or retitled.

1) Definition:

- (A) "Commissioner" means the Commissioner of Revenues for the Department of Finance and Administration.
- (B) "Dealer" means any person or business who sells or offers for sale a motor vehicle after selling or offering for sale five (5) or more motor vehicles in the previous twelve (12) months, or who is a new or used motor vehicle dealer licensed by or with the State of Arkansas. Persons or businesses that operate as salvage vehicle pools or salvage vehicle auctions are not considered to be "dealers" under the provisions of this regulation when selling vehicle parts to a dealer.
- (C) "Owner" means an individual, insurance company or other entity with legal title to a motor vehicle subject to the provisions of this regulation.
- (D) "Repairer or Rebuilder" means any person, firm or entity that engages in the repairing, rebuilding or reconstructing of any damaged motor vehicle, as defined in this regulation, whether or not such activity is for profit.
- (E) "Motor vehicle" means every self-propelled vehicle, upon or by which any person or property is or may be transported upon a street or highway. Such definition shall exclude:
 - (i) motorcycles, motor-driven cycles, and trucks with an unladen weight of 10,000 pounds or more;
 - (ii) any motor vehicle that has been damaged to the extent that it is considered junk under the provisions of Ark. Code Ann. §§27-14-913, or for which an Arkansas permit to dismantle or an out-of-state junking certificate has been issued;

- (iii) any motor vehicle that is more than five (5) model years old. (Using the current calendar year and subtracting five (5) determines the latest model year excluded.)
- (F) “Water damage” means damage to a motor vehicle caused by submerging or partially submerging the vehicle in water to the extent that the vehicle was submerged or partially submerged at any water level above the dashboard of the vehicle, regardless of the actual dollar amount of the damage.
- (G) “Damaged motor vehicle” means a motor vehicle, as defined in this regulation, that has received:
 - (i) physical damage that equals or exceeds seventy percent (70%) of the vehicle’s average retail value, as listed in the most current issue of any pricing guide that may be approved by the Commissioner for use in determining the percentage of such damage; or
 - (ii) water damage, as defined in this section.
- (H) “Rebuilt or Reconstructed motor vehicle” means a motor vehicle for which a Damaged title, or similar certificate of title issued by another state, has been previously issued, and such motor vehicle has been repaired to the extent that it can be licensed for use on the public streets and highways of this state.
- (I) “Damaged title” means an Arkansas certificate of title issued to the owner of a damaged motor vehicle, as defined in this regulation, that bears the notation “DAMAGED” in the remarks section of its face.
- (J) “Previous Damage title” means an Arkansas certificate of title issued to the owner of a rebuilt or reconstructed motor vehicle, as defined in the regulation, bearing the notation “PREVIOUS DAMAGE” in the remarks section on its face.
- (K) “Declaration of Damage To a Motor Vehicle” means a form, prescribed by the Commissioner, which shall be completed by the owner of a damaged motor vehicle and surrendered to the Commissioner when making application for registration and issuance of a Damaged title.
- (L) “Affidavit of Reconstruction For A Damaged Motor Vehicle” means a form, prescribed by the Commissioner, which shall be completed by a repairer or rebuilder upon his completion of the rebuilding or reconstruction of a damaged motor vehicle, and surrendered to the Commissioner by the owner of such rebuilt or reconstructed motor

vehicle when making application for registration and issuance of a Previous Damage title.

- 2) After the effective date of this regulation any owner of a motor vehicle which sustains physical damage or water damage to the extent that it is a “damaged motor vehicle” shall surrender to the Commissioner the existing certificate of title to such motor vehicle accompanied by the following:
 - (A) either:
 - (i) a completed Declaration of Damage (attachment #1) describing the damaged motor vehicle and reflecting the extent of damage; or,
 - (ii) a copy of the insuring company’s total loss report, if such report has been approved by the Commissioner, in writing, for use as a substitute for the Declaration of Damage;
 - (B) an application for registration and issuance of a certificate of title to the vehicle signed by the vehicle owner;
 - (C) any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to a vehicle;
 - (D) the payment of all requisite fees and taxes for the registration and issuance of a Damaged title.
- 3) Upon receipt of the certificate of title and accompanying documents listed in paragraph 2) above, the Commissioner shall cause to be issued to the owner a new certificate of title bearing the notation “DAMAGED” in the remarks section on its face. Such registration and issuance of a Damaged title shall be for proof of ownership only, and the damaged motor vehicle shall not be operated on the streets or highways of this state until it meets the requirements set forth in paragraph 5) of this regulation.
- 4) When any motor vehicle for which a Damaged title has been issued (or for which a similarly branded or designated title has been issued by another state) is rebuilt or reconstructed, the repairer or rebuilder shall complete and deliver to the owner a signed Affidavit of Reconstruction For A Damaged Motor Vehicle (attachment #2) fully disclosing the repairs made to the rebuilt or reconstructed motor vehicle, listing all parts and components that were repaired or replaced. The owner, or repairer or rebuilder if he is the owner, shall acknowledge receipt of the Affidavit of Reconstruction For A Damaged Motor Vehicle by signing it in the space provided for the owner’s signature.

- 5) The owner, or repairer or rebuilder if he is the owner, of a damaged motor vehicle that has been repaired or reconstructed shall surrender to the Commissioner the existing Damaged title to the repaired or reconstructed motor vehicle, accompanied by:
 - (A) the completed Affidavit of Reconstruction For A Damaged Motor Vehicle required by paragraph 4) above;
 - (B) an application for registration and issuance of a certificate of title to the vehicle signed by the vehicle owner;
 - (C) any additional documentation otherwise necessary to comply with specific statutory requirements for registration and issuance of a certificate of title to a vehicle;
 - (D) the payment of all requisite fees and taxes for the registration and issuance of a Previous Damage title.
- 6) Upon receipt of the Damaged title and accompanying documents listed in paragraph 5) above, the Commissioner shall cause to be issued to the owner a new certificate of title bearing the notation "PREVIOUS DAMAGE" in the remarks section on its face. Such notation shall be carried forward and printed on the face of all such subsequent titles issued for such repaired or reconstructed motor vehicle.
- 7) All documents surrendered to the Commissioner for issuance of a Damage title or a Previous Damage title to a motor vehicle shall be made part of the permanent records of ownership of such motor vehicle, and shall be made available for public inspection upon request.
- 8) In accordance with Section 6. of Act 614 of 1993, persons licensed by the State of Arkansas as dealers in motor vehicles shall not be required to pay gross receipts taxes or compensating use taxes on any motor vehicle they are required to register and title in accordance with this regulation.
- 9) Any motor vehicle that has been damaged to the extent that it is considered junk under the provisions of Ark. Code Ann. §§27-14-913 and for which an Arkansas permit to dismantle has been issued, or for which a junking certificate has been issued, or for which a junking certificate has been issued by another state, shall not be registered or titled in the State of Arkansas for any purposes.
- 10) Any Insurance company licensed to do business in the State of Arkansas who obtains possession of a motor vehicle as the result of settlement of an insurance claim, and such motor vehicle has not sustained sufficient damage to require the issuance of a Damaged title, or is excluded from meeting the

definition of a motor vehicle by virtue of its age [paragraph 1) (E) (iii) of this regulation], may dispose of the motor vehicle by reassigning the existing certificate of title assigned to the insurance company by the insured owner, and shall not be required to apply for registration and issuance of a title in the name of the insurance company.

- 11) Dealers in motor vehicles offering for sale any motor vehicle for which a Previous Damage certificate of title has been issued shall display in a side window of the vehicle a buyer's notification form, as prescribed by the Consumer Protection Division of the Office of the Attorney General, disclosing the nature of the brand of the certificate of title and a description of the damage sustained by the motor vehicle, as reflected on the records maintained by the Commissioner under the provisions of paragraph 7) of this regulation.
- 12) An owner of a motor vehicle who knowingly offers for sale or trade any motor vehicle for which a Previous Damage certificate of title has been issued shall furnish, prior to sale or trade to any prospective buyer, on a buyers notification form prescribed by the Consumer Protection Division of the Office of the Attorney General, the nature of the brand on the certificate of title and a description of the damage sustained by the motor vehicle as reflected on the records maintained by the Commissioner under the provisions of paragraph 7) of this regulation.
- 13) The buyers notification form shall be properly completed and signed by the buyer, prior to the time of sale, and a signed copy retained by the owner. Failure of the owner or dealer to procure the buyers signature on the buyers notification form shall render the sale voidable at the election of the buyer any time within thirty (30) days after the date of the sale transaction.

Executed this 11th day of December, 1995.

Richard A. Weiss, Director
Arkansas Department of
Finance and Administration

Tim Leathers, Commissioner
of Revenue, Arkansas Department
of Finance and Administration